



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2021-0029]

RIN 1625-AA08

Special Local Regulations; Mystic Sharkfest Swim, Mystic River, Mystic, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will issue special local regulations for an annual Mystic Sharkfest Swim event on the Mystic River. This rule is intended to ensure the protection of the maritime public and event participants from the hazards associated with this marine event. Once enforced, these special local regulations would restrict vessels from transiting the regulated area during this annually recurring event.

DATES: This rule is effective without actual notice [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For the purposes of enforcement, actual notice will be used from July 18, 2021 until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0029 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician 1st Class Chris Gibson, Waterways Management Division, Sector Long Island Sound; Tel: (203) 468-4565; Email: chris.a.gibson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Long Island Sound
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On April 13, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations; Mystic Sharkfest Swim, Mystic River, Mystic, CT (86 FR 19169). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 13, 2021, we received 0 comments.

The Captain of the Port Long Island Sound (COTP) will amend Table 1 of 33 CFR 100.100 Special Local Regulations; Regattas and Boat Races in the Coast Guard Sector Long Island Sound Captain of the Port Zone because adding this single reoccurring event will considerably reduce administrative overhead and provide the public with notice through publication in the Federal Register of the upcoming recurring special local regulation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with this annual recurring event will be a safety concern for anyone within the area where the special local regulations will commence. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for

making this rule effective less than 30 days after publication in the Federal Register.

Delaying the effective date of this rule would be impracticable and contrary to the public interest because the special local regulation must be established for the swim event on July 18, 2021 to mitigate the potential safety hazards.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 13, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes special local regulations for the annual Mystic Sharkfest Swim event by adding this event to Table 1 to 33 CFR 100.100. The event will occur on a day in July at a time to be determined each year. The regulated area will encompass all waters of the Mystic River in Mystic, CT from Mystic Seaport, down the Mystic River, under the Bascule Drawbridge, to the boat launch ramp at the north end of Seaport Marine. Once enforced on the one day in July each year, these special local regulations would restrict vessels from transiting the regulated area. The specific description of this regulation appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration and time-of-day of the special local regulation. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the special local regulation and the rule would allow vessels to seek permission to enter the area. Vessel traffic would also be able to request permission from the COTP or a designated representative to enter the restricted area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small

Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves adding an annually recurring marine event to the already listed Table in 33 CFR 100.100. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. In §100.100, amend Table 1 by inserting item 7.8, in numerical order, to read as follows:

Table 1 to § 100.100

7	July

7.8 Mystic Sharkfest Swim	<ul style="list-style-type: none"> • Date: A single day during July.
	<ul style="list-style-type: none"> • Time: To be determined annually.
	<ul style="list-style-type: none"> • Location: All waters of the Mystic River in Mystic, CT from Mystic Seaport, down the Mystic River, under the Bascule Drawbridge at 41°21'17.046" N., 071°58'8.742" W., to finish at the boat launch ramp at the north end of Seaport Marine.

Dated: July 08, 2021

E. J. VAN CAMP,

Captain, U.S. Coast Guard,

Captain of the Port Long Island Sound.

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